

AMENDED IN ASSEMBLY JULY 20, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE APRIL 3, 2001

SENATE BILL

No. 537

Introduced by Senator Vasconcellos

February 22, 2001

An act to add and repeal Chapter 10.5 (commencing with Section 4700) of Division 2 of the Business and Professions Code, relating to alcohol and drug abuse counselors.

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Vasconcellos. Alcohol and drug abuse counselors.

Existing law provides for the licensure and regulation of various healing arts practitioners, including those who provide counseling-related services, such as psychologists, social workers, and marriage, family, and child counselors.

~~This bill would create within the Department of Consumer Affairs the California Board of Alcohol and Drug Abuse Counselors and would provide for the registration and licensure by the board of persons who render for compensation alcohol and other drug dependency counseling services. The bill would specify 3 categories of licensure and the criteria required for the issuance of a license by the board under each category. The bill would make it a misdemeanor for an unlicensed person to represent himself or herself as licensed by the board to perform alcohol or drug counseling functions.~~ *require the Department of Consumer Affairs to conduct an occupational analysis of drug treatment counselors and to report its findings and recommendations to the*

Governor and the Legislature by April 1, 2002. The bill would require the State Department of Alcohol and Drug Programs to review its program quality assurance mechanisms and facility licensing responsibilities regarding drug treatment counselors, to prepare regulations and proposed statutory policies to establish professional standards by April 1, 2002, and to assist the Department of Consumer Affairs in duties created by the bill. The bill would specify that its provisions remain in effect until an unspecified date at which time they would be repealed, unless a later enacted statute deletes or extends that date.

~~This bill would create the Alcohol and Drug Counselors Fund. The bill would authorize a loan of up to \$1,000,000 from the General Fund to fund operating, personnel, and other startup costs of the board. The bill would require the loan to be repaid within 5 years, with specified interest, from fees collected.~~

~~Because this bill would make it a misdemeanor for an unlicensed person to represent himself or herself as licensed by the board to perform alcohol or drug counseling functions, it would create a new crime, thereby imposing a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The overwhelming passage by the people of California of*
- 4 *Proposition 36 constitutes a historic conversion of public policy*
- 5 *with respect to the possession of illegal drugs from incarceration*
- 6 *to treatment.*
- 7 (b) *It is the responsibility of the Governor and Legislature, in*
- 8 *keeping faith with this expression of the will of the people of*
- 9 *California, to assure that the state provides a smart,*
- 10 *comprehensive system to implement Proposition 36 and to realize*

1 *its aspiration and promise to provide drug abusers treatment that*
2 *will enable them to cure their addictions and lead more*
3 *constructive lives.*

4 *(c) Proposition 36 will add over a half billion dollars into new*
5 *treatment over the next five years, and it requires that all programs*
6 *providing this treatment be licensed.*

7 *(d) The public has the right to expect that the treatment*
8 *provided by state and local programs is as effective as possible in*
9 *addressing substance abuse in this state, but Proposition 36 did not*
10 *include a requirement that the counselors be licensed.*

11 *(e) Proposition 36 provides a significant opportunity for*
12 *establishing quality substance abuse treatment standards in*
13 *California.*

14 *(f) Any person who seeks treatment for an addiction has the*
15 *right to expect a degree of public protection to assure that he or she*
16 *receives safe, effective, and ethical treatment.*

17 *(g) Over the past 30 years the State of California has developed*
18 *expertise regarding a substantial body of knowledge for informing*
19 *the preparation and assessment of counselors in this field.*

20 *(h) Thousands of persons working in the field of substance*
21 *abuse counseling are providing safe, effective, and ethical*
22 *treatment and yet the State of California has no system for*
23 *monitoring and assuring a level of competence. A new licensing*
24 *system for substance abuse counselors needs to be implemented in*
25 *ways that maximize the commitment and talent of people already*
26 *in the field as well as public consumer protection.*

27 *(i) The precious role of peers, including persons experienced*
28 *with addiction, must be a central component of any licensing*
29 *system.*

30 *SEC. 2. It is the intent of the Legislature to generate and*
31 *implement a fair, smart, and comprehensive system of quality*
32 *control and consumer protection in the field of substance abuse*
33 *counseling by January 1, 2003.*

34 *SEC. 3. Chapter 10.5 (commencing with Section 4700) is*
35 *added to Division 2 of the Business and Professions Code, to read:*
36

CHAPTER 10.5. ALCOHOL AND DRUG ABUSE COUNSELORS
LICENSING LAW

4700. This chapter shall be known and may be cited as the Alcohol and Drug Abuse Counselors Licensing Law.

~~4701. The following definitions apply for the purposes of this chapter:~~

~~(a) "Board" means the California Board of Alcohol and Drug Abuse Counselors.~~

~~(b) "Licensee" means a person licensed under this chapter who renders for compensation, alcohol and other drug dependency and abuse counseling, or related services, to an individual, group, organization, corporation, institution, or the general public.~~

~~4702. (a) There is in the Department of Consumer Affairs, the California Board of Alcohol and Drug Abuse Counselors.~~

~~(b) (1) The board consists of nine members appointed by the Governor. Each member shall be a resident of the state at the time of his or her appointment and for five years prior to appointment to the board.~~

~~(2) Eight members of the board shall be licensees. Two of these members shall also be voting members of the National Association of Alcoholism and Drug Abuse Counselors. Two other of these members shall be educators in the subject of alcohol and drug abuse counseling. Two other of these members shall have a background in social model recovery programming.~~

~~(3) The remaining member shall have been a consumer of alcohol or drug abuse counseling services prior to his or her appointment. This member shall not be licensed under this chapter or employed in the alcohol or drug abuse counseling field.~~

~~(c) The board is responsible for administering the provisions of this chapter. Those duties include, but are not limited to, the following:~~

~~(1) Adopting rules and regulations required~~

4701. In order to accomplish the purposes of this chapter, the Department of Consumer Affairs shall direct that an occupational analysis of persons providing substance abuse counseling be conducted which shall be assigned top priority in order to assure completion and submission to the Governor and Legislature not later than March 1, 2002. The conducting of the analysis shall include, but not be limited to, the following:

1 (a) *The Board of Behavioral Science Examiners shall work*
2 *closely with the State Department of Alcohol and Drug Programs*
3 *to determine the range of skills, tasks, and work settings for*
4 *counselors in current substance abuse treatment programs as well*
5 *as in independent practice. The Board of Behavioral Science*
6 *Examiners shall also examine the need for scope of practice*
7 *limitations for substance abuse counselors.*

8 (b) *The Board of Behavioral Science Examiners shall solicit*
9 *public comment from all interested parties, including, but not*
10 *limited to, private credentialing programs, academicians, social*
11 *model recovery homes, and therapeutic community providers, to*
12 *develop standards for academic and practical training needed to*
13 *develop common standards for licensing counselors in this field.*

14 (c) *Special attention shall be paid to maximizing opportunities*
15 *for recovering addicts to work in this field of counseling. Issues of*
16 *cultural diversity and competence shall also be addressed to*
17 *assure a licensing system to the needs of the people of California.*

18 4702. *Not later than April 1, 2002, the Department of*
19 *Consumer Affairs shall report to the Governor and the Legislature*
20 *with its findings and recommendations for creating a fair, smart,*
21 *comprehensive system of quality control and consumer protection*
22 *in the field of substance abuse counseling including, but not*
23 *limited to, the following:*

24 (a) *Recommending statutory and regulatory requirements to*
25 *implement the provisions of this chapter.*

26 ~~(2)~~

27 (b) *Selecting and providing for the administration of a*
28 *semiannual licensure examination.*

29 ~~(3)~~

30 (c) *Initiating disciplinary action against a licensee, including*
31 *censure, reprimand, probation, or revocation of the license.*

32 ~~(4)~~

33 (d) *Establishing continuing education requirements for*
34 *licensees.*

35 ~~(5)~~

36 (e) *Establishing procedures for the receipt, investigation, and*
37 *resolution of complaints.*

38 ~~(6)~~

39 (f) *Establishing supervision and supervisory requirements for*
40 *interns.*

~~(7)~~

(g) Establishing the criteria for determining whether the curriculum of an educational institution provides adequate instruction for purposes of satisfying the educational requirements for licensure under this chapter.

~~(8)~~

(h) Establishing a code of ethics for licensees.

~~(9)~~

(i) Establishing reinstatement procedures for a license issued under this chapter that has expired or been revoked.

~~(d) The board shall elect a chairperson from its membership on an annual basis and shall designate one of its members to serve as a liaison with the Board of Behavioral Science Examiners.~~

~~(e) Board members shall serve without compensation but shall be reimbursed for the actual and necessary expenses incurred in the discharge of their duties under this chapter, including mileage at the rate approved by the Department of Personnel Administration.~~

~~(f) The Governor may remove any member from the board for neglect of duty, conviction of a felony, or lack of attendance or participation at board meetings.~~

~~4703. The board may register a person who applies for registration and meets all of the following criteria:~~

~~(a) Is a resident of the state.~~

~~(b) Is at least 18 years of age.~~

~~(c) Has completed a professional ethics and orientation class.~~

~~(d) Has signed a code of ethics approved by the board.~~

~~4704. The board may issue a license under the following three categories:~~

~~(a) Licensed Addiction Counselor I.~~

~~(b) Licensed Addiction Counselor II.~~

~~(c) Licensed Addiction Practitioner.~~

~~4705. The board may issue a license under the category of Licensed Addiction Counselor I to an applicant who meets all of the following criteria:~~

~~(a) Is a resident of the state.~~

~~(b) Is at least 18 years of age.~~

~~(c) Is a high school graduate or possesses a general education development equivalent.~~

~~(d) Has 2,080 hours of experience working with chemically dependent persons in a supervised setting.~~

~~(c) Has completed 90 hours of classroom education or training in a curriculum approved by the board.~~

~~4706. The board may issue a license under the category of Licensed Addiction Counselor II to an applicant who meets all of the following criteria:~~

~~(a) Is a resident of the state.~~

~~(b) Is at least 18 years of age.~~

~~(c) Is a high school graduate or possesses a general education development equivalent.~~

~~(d) Has completed 315 hours of classroom instruction in a curriculum approved by the board.~~

~~(e) Has 4,000 hours of experience working with chemically dependent persons in a clinically supervised setting.~~

~~(f) Has completed 300 hours of fieldwork in a clinically supervised practicum.~~

~~(g) Has submitted two letters of reference from licensees.~~

~~(h) Has achieved a passing score on an oral and a written examination, both of which have been approved by the board.~~

~~4707. The board may issue a license under the category of Licensed Addiction Practitioner to an applicant who meets all of the criteria for licensure under the category of Licensed Addiction Counselor II and who has earned a master's degree or a doctorate degree in alcohol and drug counseling, or a related human services field, from an educational institution approved by the board.~~

~~4708. The term of a license issued under this chapter is two years. The license may be renewed upon application to the board and payment of the fee specified in Section 4711.~~

~~4708.1. (a) The board may issue a license under the category of Licensed Addiction Counselor I to a person who provides documentation to the board's satisfaction of current certification as a Certified Addiction Specialist by the California Association of Addiction Recovery Resources.~~

~~(b) The board may issue a license under the category of Licensed Addiction Counselor II to a person who provides documentation to the board's satisfaction of current certification as an alcoholism, drug abuse, or alcoholism and drug abuse counselor by the National Association of Alcoholism and Drug Abuse Counselors, by the California Association of Alcoholism and Drug Abuse Counselors, by the International Certification and~~

~~1 Reciprocity Consortium, or by the California Association of
2 Alcohol and Drug Educators.~~

~~3 (e) The board may issue a license under the category of a
4 Licensed Addiction Practitioner to an alcoholism, drug abuse, or
5 alcoholism and drug abuse counselor who meets all of the criteria
6 for licensure under the category of Licensed Addiction Counselor
7 II and who has a bachelor's degree in addiction counseling, or a
8 related human services field, and five years of counseling
9 experience.~~

~~10 (d) This section shall remain in effect only until January 1,
11 2003, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2003, deletes or extends that date.~~

~~13 4708.2. (a) The board may issue a provisional license under
14 the category of Licensed Addiction Practitioner to an applicant
15 who meets all of the criteria for licensure under the category of
16 Licensed Addiction Counselor II and who is currently enrolled in
17 a bachelor's or master's degree program that satisfies the
18 educational requirements for licensure under the category of
19 Licensed Addiction Practitioner. A provisional license shall be
20 issued for a term of five years and may be renewed, unless the
21 provisional license was initially issued ten or more years before the
22 date of the application for renewal.~~

~~23 (b) This section shall remain in effect only until January 1,
24 2006, and as of that date is repealed, unless a later enacted statute,
25 that is enacted before January 1, 2006, deletes or extends that date.~~

~~26 4709. (a) (1) A person licensed under the category of
27 Licensed Addiction Counselor I or II, may perform the functions
28 described in paragraph (2) in connection with alcohol and drug
29 abuse counseling, either while under the supervision of a Licensed
30 Addiction Practitioner or other licensed medical or mental health
31 professional or while employed in an alcohol or drug abuse
32 treatment program licensed or certified by the state, a facility
33 operated by the Department of Corrections, or a hospital or clinic
34 that is licensed by the State Department of Health Services.~~

~~35 (2) Screening, intake, orientation, assessment, treatment
36 planning, treatment, case management, substance abuse,
37 dependence crisis intervention, client education, referral
38 activities, recordkeeping, and consultation with other healing arts
39 professionals.~~

~~(b) A person licensed under the category of Licensed Addiction Practitioner may perform all of the functions described in paragraph (2) of subdivision (a) without supervision in any type of setting and may also supervise, direct, and instruct others who provide alcohol or drug abuse treatment services.~~

~~4710. (a) A person shall not represent himself or herself as licensed under this chapter and shall not use the title, initials, or description of a Licensed Addiction Counselor I or II or Licensed Addiction Practitioner or practice or attempt to practice alcohol and drug abuse counseling without a valid license issued under this chapter. A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not less than five hundred dollars (\$500).~~

~~(b) This section shall not apply to the following:~~

~~(1) A person who performs alcohol or drug counseling functions if the person is qualified or licensed to perform those functions and does not use a title that incorporates the words "Licensed Addiction Counselor" or "Licensed Addiction Practitioner," or otherwise hold himself or herself out to the public by any title or description stating or implying that he or she is licensed to engage in the practice of alcohol and drug abuse counseling.~~

~~(2) A member of a peer or self-help group in performing peer group or self-help activities if the person does not use a title stating or implying he or she is licensed to engage in the practice of alcohol and drug abuse counseling.~~

~~(3) A student who is enrolled in an accredited school of alcohol and drug abuse counseling while providing alcohol and drug abuse counseling services under qualified supervision.~~

~~4711. The board shall assess a fee in the amount of _____ dollars (\$____) that each applicant shall pay to the board for registration and for the issuance of a license under this chapter and for its renewal.~~

~~4711.5. The Alcohol and Drug Counselors Fund is hereby created. A loan is hereby authorized from the General Fund to the Alcohol and Drug Counselors Fund on or after July 1, 2001, in an amount of up to one million dollars (\$1,000,000) to fund operating, personnel, and other startup costs of the board. This loan shall be repaid to the General Fund from fees collected over no more than five years subsequent to the effective date of this~~

chapter, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.

4712. This chapter shall remain in effect only until _____, and as of that date is repealed, unless a later enacted statute, that is enacted before _____, deletes or extends that date.

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

SEC. 4. (a) The State Department of Alcohol and Drug Programs shall review its program quality assurance mechanisms and facility licensing responsibilities regarding statewide professional standards and shall survey programs to identify the type and number of counselors who currently work in each program licensed by the department.

(b) The State Department of Alcohol and Drug Programs shall prepare regulations and propose statutory policies to establish professional standards to further the purposes of this act not later than April 1, 2002.

(c) The State Department of Alcohol and Drug Programs shall assist and fully cooperate with the Department of Consumer Affairs in fulfilling its responsibilities under the provisions of this act.